

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

BOB A PUGH,

Plaintiff,

v.

SUSAN DREYFUS et al.,

Defendants.

CASE NO. C13-5295 RBL-JRC

REPORT AND RECOMMENDATION

NOTED FOR:
APRIL 11, 2014

The District Court has referred this 42 U.S.C. § 1983 civil rights action to United States Magistrate Judge J. Richard Creatura. The Court's authority for the referral is 28 U.S.C. § 636(b)(1)(A) and (B), and Magistrate Judge Rules MJR3 and MJR4.

The Court recommends dismissing this action pursuant to Fed. R. Civ. P. 41(b) because plaintiff has failed to comply with a Court Order to file an amended complaint.

On September 16, 2013, defendants asked the Court to order plaintiff to file an amended complaint that contained greater detail (Dkt. 26). Plaintiff did not respond to defendants' motion. Instead, plaintiff filed a motion asking the Court to stay this action so that he could have time to prepare for an annual review, "show cause hearing," regarding his civil commitment (Dkt. 27).

On November 4, 2013, the Court granted both motions (Dkt. 30). The Court stayed the action and ordered plaintiff to file an amended complaint on or before January 30, 2014 (*id.*).

Plaintiff did not comply with the Court's order. On February 5, 2014, plaintiff filed an untimely motion for an extension asking that he be allowed to contest defendants' motion for a more definite statement (Dkt. 31). The Court denied plaintiff's untimely motion (Dkt. 33).

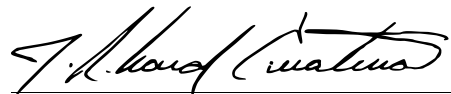
Plaintiff has failed to comply with a Court order to file an amended complaint and the Court recommends dismissal of this action with prejudice pursuant to Fed. R. Civ. P. 41 (b). Fed. R. Civ. P. 41 (b) states:

If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it. Unless the dismissal order states otherwise, a dismissal under this subdivision (b) and any dismissal not under this rule--except one for lack of jurisdiction, improper venue, or failure to join a party under Rule 19--operates as an adjudication on the merits.

Plaintiff has had over four months to comply with the Court's order to file an amended complaint. The Court recommends that this action be dismissed with prejudice for failure to comply with the Court's order.

Pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b), the parties shall have fourteen (14) days from service of this Report to file written objections. *See also* Fed. R. Civ. P. 6. Failure to file objections will result in a waiver of those objections for purposes of de novo review by the district judge. *See* 28 U.S.C. § 636(b)(1)(C). Accommodating the time limit imposed by Fed. R. Civ. P. 72(b), the clerk is directed to set the matter for consideration on April 11, 2014, as noted in the caption.

Dated this 18th day of March, 2014.



J. Richard Creatura
United States Magistrate Judge